

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARK CHARLES MASCH,

Plaintiff(s),

v.

KILOLO KIJAKAZI,

Defendant(s).

Case No. 2:22-cv-01972-NJK

ORDER

[Docket No. 25]

Pending before the Court is Plaintiff's motion for voluntary dismissal. Docket No. 25. No response is required. The Court does not require a hearing. *See* Local Rule 78-1. For the reasons discussed below, the motion for voluntary dismissal is **GRANTED**.

Federal Rule of Civil Procedure 41(a)(2) states that "an action may be dismissed at the plaintiff's request only by court order, on terms that the court considers proper." Fed. R. Civ. Pro. 41(a)(2). Unless a court explicitly states otherwise, "a dismissal under this paragraph (2) is without prejudice." *Id.* The Ninth Circuit has held that "a district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result." *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001). "Legal prejudice" means "prejudice to some legal interest, some legal claim, [or] some legal argument." *Id.* at 976. Motions for voluntary dismissal are "addressed to the district court's sound discretion and the court's order will not be disturbed unless the court has abused its discretion." *Stevedoring Servs. of America v. Armilla Intern. B.V.*, 889 F.2d 919, 921 (9th Cir. 1989).

The instant case arises from a final administrative decision by the Commissioner of Social Security denying Plaintiff's application for Supplemental Security Income. *See* Docket Nos. 20, 22, 23. Plaintiff died on June 1, 2023, and on September 5, 2023, his counsel later filed the instant motion for voluntary dismissal pursuant to Rule 41(a)(2). *See* Docket No. 25 at 2. Plaintiff submits that there are no proper parties who are owed any payments under the Commissioner's regulations

1 and that Defendant consents to the instant motion. *See id.* Therefore, the Court finds Defendant
2 will not suffer prejudice as a result of the dismissal.

3 Accordingly, the motion for voluntary dismissal is **GRANTED** and Plaintiff's complaint
4 is **DISMISSED** without prejudice. The Court **INSTRUCTS** the Clerk's Office to close this case.

5 IT IS SO ORDERED.

6 Dated: September 6, 2023.

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10 NANCY J. KOPPE
11 UNITED STATES MAGISTRATE JUDGE
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